

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

ELYSEE NICOLAS, Individually and as
representative of a class of participants and
beneficiaries on behalf of the Princeton
University 403(b) Plan,

Plaintiff,

VS.

THE TRUSTEES OF PRINCETON
UNIVERSITY,

Defendant.

) Civil Action
)
) No. 3:17-cv-03695 (AET) (DEA)
)
) Honorable Anne E. Thompson
) United States District Judge
)
) Honorable Douglas E. Arpert
) United States Magistrate Judge
)
) CLASS ACTION
)
) *Oral argument requested*
)

**NOTICE OF DEFENDANT’S MOTION TO DISMISS THE COMPLAINT
FOR FAILURE TO STATE A CLAIM AND/OR MOTION FOR SUMMARY
JUDGMENT**

PLEASE TAKE NOTICE that, upon the accompanying Memorandum of Law dated August 7, 2017; the Declarations of Linda Nilsen, dated August 3, 2017, and Neil V. Shah, dated August 7, 2017, and the exhibits attached thereto; and the Statement of Undisputed Material Facts submitted pursuant to Local Rule 56.1 of the Local Rules of the United States District Court for the District of New Jersey, Defendant The Trustees of Princeton University (“Princeton”) will, and hereby does, move this Court, before the Honorable Anne E. Thompson, United States District Judge, in the Clarkson S. Fisher United States Courthouse, Courtroom 4W, 402 East State Street, Trenton, New Jersey 08608, at a date and time to be set by the Court, for an Order: (i) dismissing the Complaint pursuant to Federal Rule of Civil Procedure (“Rule”) 12(b)(6) for failure to state a claim; (ii) entering judgment as a matter of law in favor of the Defendant pursuant to Rule 56; and (iii) for such other and further relief as the Court may deem just and proper.

PLEASE TAKE FURTHER NOTICE that, pursuant to Local Rule 78.1, Princeton respectfully requests oral argument with respect to the Motion.

Dated: August 7, 2017
Newark, NJ

Respectfully submitted,

By: /s/ **Neil V. Shah**

Neil V. Shah

Proskauer Rose LLP
One Newark Center
Newark, NJ 07102
(973) 274-3200
nshah@proskauer.com

Counsel for Defendant